

RESOLUTION NO. 74638

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ MAKING DETERMINATIONS AND ORDERING THE DETACHMENT FROM A CERTAIN SPECIAL DISTRICT OF CERTAIN UNINHABITED TERRITORY DESIGNATED AS RIVERSIDE NO. 51, SUBJECT TO LIABILITY FOR GENERAL INDEBTEDNESS OF THE CITY

WHEREAS, the City Council of the City of San José ("City") desires to consider the detachment of certain territory described herein from the South Santa Clara County Fire Protection District, which territory consists of 3.4 ± gross acres of an approximately 1800 foot long portion of Santa Teresa Boulevard right-of-way, located approximately 1,100 feet southeast of Bayliss Drive, all in connection with the approval of that certain reorganization of territory by City, the distinctive short form designation of which is known as Riverside No. 51; and

WHEREAS, the City of San Jose, by its Resolution No. 74153 adopted on December 4, 2007 ordered the reorganization of territory designated as Riverside No. 51, and inadvertently did not include the detachment of the subject territory from that certain special district described herein and now desires to complete that action; and

WHEREAS, the City of San José, by its Resolution No. 74593 adopted on September 23, 2008 duly initiated reorganization proceedings for the detachment of this certain uninhabited territory and set the time and place for consideration of such reorganization in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as the same may have been amended from time to time; and

WHEREAS, the Council of the City of San José was duly designated as the conducting authority for further proceedings to reorganize the territory described herein by said Resolution No. 74593; and

WHEREAS, Section 56757 of the California Government Code states that the Local Agency Formation Commission shall not review an annexation proposal to any City in Santa Clara County of unincorporated territory which is within the urban service area of the City if initiated by resolution of the legislative body, and, therefore, the City Council of the City of San José is now the conducting authority for said annexation

insofar that the City initiated these reorganization proceedings under and pursuant to its Resolution No. 74593; and

WHEREAS, this proposal relates to a previous annexation to the City of San José of certain unincorporated territory comprising unincorporated islands of County jurisdiction substantially surrounded by City jurisdiction and within the urban service area of City described herein and located in the County of Santa Clara, which was not subject to review by the Local Agency Formation Commission as provided under Section 56757 of the California Government Code; and

WHEREAS, such territory is known by the short form designation of “**Riverside No. 51,**” and a description of the boundaries of this territory is set forth in Exhibit “A” attached hereto and incorporated herein by this reference, which description is subject to correction or revision as required; and

WHEREAS, a map showing the location of such territory is attached hereto as Exhibit “B” and incorporated herein by this reference; and

WHEREAS, the subject real property, comprising 3.4 ± acres consisting of an approximately 1,800 foot long portion of Santa Teresa Boulevard right-of-way, located approximately 1,100 feet southeast of Bayliss Drive, San Jose, has been annexed to the City of San José and is within its urban service area; and

WHEREAS, the area of the subject property does not exceed one hundred fifty (150) acres in size and the subject property prior to its annexation constituted an island of unincorporated County jurisdiction within City limits that was surrounded by or substantially surrounded by City jurisdiction; and

WHEREAS, the subject property is not a gated community where urban services are provided by a community service district; and

WHEREAS, the subject property is substantially developed in that street improvements are currently located on the property, and

WHEREAS, the subject property is not prime agricultural land under the provisions of California Government Code Section 56064; and

WHEREAS, the subject property currently is receiving or will receive the following benefits from the City, to wit: all municipal services, not limited to street

maintenance, street light, law enforcement, sanitary sewer, code enforcement, street sweeping, garbage collection, and fire protection; and

WHEREAS, the following special district would be affected by the proposed detachment: South Santa Clara County Fire Protection District; and

WHEREAS, the annexation of the subject territory has provided for the use of City services; and

WHEREAS, this territory has been zoned A - Agricultural District upon its annexation to the City of San Jose in accordance with Section 20.120.310 of the Zoning Ordinance, as the parcel was previously zoned by the County of Santa Clara as "A-Exclusive Agricultural Zoning District;" and

WHEREAS, the City of San José is the Lead Agency for environmental review for the reorganization known as "**Riverside No. 51**" under the California Environmental Quality Act of 1970, as amended ("CEQA"); and

WHEREAS, the environmental impacts of this project were addressed by a Final EIR entitled, "San Jose 2020 General Plan," and related findings were adopted by City Council Resolution No. 65459, said Environmental Impact Report and Resolution No. 65459 became final on August 16, 1994, and this Council has considered and approved said Environmental Impact Report and Resolution No. 65459 prior to taking any adoption actions on this Resolution; and

WHEREAS, the County Surveyor of Santa Clara County has found the real property description of the subject property and the map of the subject property (Exhibits "A" and "B," respectively) to be in accordance with California Government Code Section 56757, the boundaries to be definite and certain, and the proposal to be in compliance with the County's Local Agency Formation Commission's road annexation policies; and

WHEREAS, as provided in Government Code Section 56757, the City Council of the City of San José shall be the conducting authority for a reorganization to the City, and the City Council by this resolution is proposing the reorganization described in this Resolution; and

WHEREAS, as the territory is uninhabited and all owners of land included in this proposal have consented to this detachment; and

WHEREAS, this proposal is consistent with the sphere of influence of the City of San José; and

WHEREAS, it is anticipated that the proposed reorganization will be recommended to be subject to the following terms and conditions: none; and

WHEREAS, the reason for the proposed reorganization is as follows: to detach a recently-annexed area from an additional special district inadvertently omitted from the annexation action in order to eliminate a duplication of services.

WHEREAS, the City's Resolution No. 74593 fixed October 21 at 7:00 p.m., in the Council Chambers of the City of San José, City Hall, 200 East Santa Street, San José, California, as the date, time and place said Council would consider said reorganization; and

WHEREAS, the regular County assessment roll is utilized by the City; and

WHEREAS, land and improvements within the territory shall be liable for the general indebtedness of the City of San José existing at the time of annexation; and

WHEREAS, if required or necessary, affected property owners have waived any Proposition 218 election that may pertain to this reorganization proposal; and

WHEREAS, the following facts pertain to the findings required by the Council in accordance with Government Code Section 56757:

1. The unincorporated territory proposed for reorganization is within the City's Urban Service Area, as adopted by the Santa Clara Local Agency Formation Commission.
2. The County Surveyor has determined the boundaries of the proposed to be definite and certain, and in compliance with the Santa Clara County Local Agency Formation Commission's road annexation policies.
3. The proposal does not split lines of assessment or ownership in that all affected parcels are being organized in their entirety.
4. The proposal does not create islands or areas in which it would be difficult to provide municipal services in that the completion of reorganization proceedings would result in the reduction of a County "pocket" of unincorporated territory.
5. The proposal is consistent with the City's adopted General Plan in that existing and future urban development should be located within cities.

6. The territory is contiguous to existing City limits.
7. The City has complied with all conditions imposed by the Commission for inclusion of the territory in the City's Urban Service Area as follows:
 - A. No such conditions imposed.
8. The unincorporated territory will be immediately zoned A Agricultural District upon its annexation to the City of San Jose in accordance with Section 20.120.310 of the Zoning Ordinance, as the parcel is zoned by the County of Santa Clara as "A-Exclusive Agricultural Zoning District".

WHEREAS, the following facts pertain to the findings required by the Council in accordance with Government Code Section 56375.3:

1. The size of the subject territory in its entirety is less than one hundred fifty (150) acres; and
2. The territory constitutes a previously unincorporated island of County territory that is surrounded by or substantially surrounded by City territory on the north and south sides; and
3. The territory is not a gated community where urban services are provided by a community service district; and
4. The territory is considered developed in that street improvements are currently located on the property, and
5. The County territory is not prime agricultural land under the provisions of California Government Code Section 56064; and
6. The territory currently is receiving or will receive the following benefits from the City, to wit: all municipal services; and
7. The island of unincorporated County territory was created on April 12, 1965, which is prior to January 1, 2000.

WHEREAS, evidence pertaining to the proposed reorganization was presented to the City Council at the City Council's public hearings on this matter.

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF SAN JOSE HEREBY FINDS:

1. That it is the conducting authority pursuant to Section 56757 of the Government Code for the detachment of property designated "Riverside No. 51," more particularly described in Exhibit "A" and more particularly shown upon that certain map attached hereto as Exhibit "B." both of which exhibits are incorporated herein by this reference;
2. That the following findings are made by the City Council for the City of San José:
 - a. That said territory is uninhabited and comprises approximately 3.4 acres.
 - b. That the annexation is consistent with the orderly annexation of territory within the City's urban service area and is consistent with the City policy for annexation when annexed (providing City Services).
 - c. That the City Council has considered and adopted a Final EIR entitled, "San Jose 2020 General Plan," Resolution No. 65459, which addressed the impacts of the project and became final on August 16, 1994. This proposal is in compliance with the California Environmental Quality Act and in that the adopted EIR considers the environmental impacts of the proposed change in organization.
 - d. That the unincorporated territory will be immediately zoned A Agricultural District upon its annexation to the City of San Jose in accordance with Section 20.120.310 of the Zoning Ordinance, as the parcel is zoned by the County of Santa Clara as "A-Exclusive Agricultural Zoning District".
 - e. That the territory is within the City's urban service area as adopted by the Local Agency Formation Commission of Santa Clara County.
 - f. That the County Surveyor has determined the boundaries of the proposed annexation to be definite and certain, and in compliance with the Commission's road annexation policies; and pursuant to agreement the County has agreed to incur the costs of making this determination.
 - g. That the proposed annexation does not create islands or areas in which it would be difficult to provide municipal services. This reorganization reduces or eliminates an unincorporated county "pocket" and is adjacent to and surrounded or substantially surrounded by City territory to the north and south, and County territory to the east and west.
 - h. That the proposed annexation does not split lines of assessment or ownership.
 - i. That the proposed annexation is consistent with the City's General Plan.
 - j. That the territory to be annexed is contiguous to existing City limits.

- k. That the City has complied with all conditions imposed by the Commission for inclusion of the territory in the City's urban service area.
3. That the following additional findings are hereby made by the City Council for the City of San José:
 - a. The size of the subject unincorporated County territory in its entirety is less than one hundred fifty (150) acres; and
 - b. The unincorporated County territory constitutes an unincorporated island of County territory that is surrounded by or substantially surrounded by City territory on the north and south sides; and
 - c. The unincorporated County territory is not a gated community where urban services are provided by a community service district; and
 - d. The unincorporated County territory is considered developed in that street improvements are currently located on the property; and
 - e. The unincorporated County territory is not prime agricultural land under the provisions of California Government Code Section 56064; and
 - f. The unincorporated County territory currently is receiving or will receive the following benefits from the City, to wit: all municipal services; and
 - g. The island of unincorporated County territory was created on April 12, 1965, which date is prior to January 1, 2000.
4. That all affected local agencies that will gain or lose territory as a result of this reorganization have consented in writing to a waiver of protest proceedings.
5. That all property owners and registered voters have been provided written notice of this proceeding.
6. That said annexation is hereby ordered without any further protest of these reorganization proceedings pursuant to Sections 56757 and 56375.3 of the California Government Code and is subject to the following additional terms and conditions: None.

BE IT FURTHER RESOLVED that upon completion of these reorganization proceedings the territory reorganized will be taxed on the regular County assessment roll, including taxes for existing bonded indebtedness, and that the City Council hereby takes the additional following actions:

1. The City Council hereby recognizes its prior actions in connection with the territory designated as Riverside No. 51 and orders the territory designated as Riverside No. 51 reorganized and organized to also include the following

changes of organization: (a) the following districts are detached:. South Santa Clara County Fire Protection District. The City of San José, as conducting authority, reorganized such territory as indicated above (with or without notice or hearings), it being found and concurred in that the territory involved in the reorganization is uninhabited and not all the owners of land within the territory have filed a written petition for the City Council to initiate said reorganization.

2. The City Council further hereby describes the exterior boundaries of the territory reorganized as all that real property in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference.

ADOPTED this 21st day of October, 2008 by the following vote:

AYES: CHIRCO, CHU, CONSTANT, LICCARDO, NGUYEN,
OLIVERIO, PYLE, WILLIAMS, REED.

NOES: NONE.

ABSENT: CAMPOS, CORTESE.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

Attachment: Exhibits "A" and "B"